

BEFORE THE
CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

In the Matter of:

FRED M. STULTZ
(Claimant)

PRECEDENT
BENEFIT DECISION
No. P-B-70
Case No. 69-2960

S.S.A. No.

The claimant appealed from Referee's Decision No. S-27601 which held that although he had good cause for refusing suitable work within the meaning of section 1257(b) of the Unemployment Insurance Code, he was ineligible for unemployment insurance benefits under section 1253(c) of the code commencing March 17, 1969 on the ground that he was not available for work.

STATEMENT OF FACTS

The claimant has approximately 15 years of experience as a technical writer. He was last so employed by an employer in Lynchburg, Virginia for a period of approximately three months at a terminal wage of \$7.60 per hour. This employment terminated on October 31, 1968 when the claimant was laid off due to lack of work. After his job terminated the claimant moved to New York City and filed a claim for unemployment insurance benefits effective March 16, 1969 against wage credits in California.

According to the claimant's testimony there are but 40 to 50 firms in the United States which offer employment in the claimant's specialized skill. He seeks employment by reading technical journals and newspapers and by submitting resumes of his past experience and training to prospective employers. He also seeks employment by registering for work with technical employment agencies; that is, job shops.

During the week ended March 23, 1969 the claimant was contacted by one job shop with which he had registered and referred to work with an employer in Long Island. He was told that the wage offered was \$7 per hour. The claimant indicated his willingness to accept this work. However, shortly after he was contacted by this job shop another job shop with which he had registered contacted him and offered him the same job at a wage rate of \$7.50 per hour. The claimant then contacted the employer and learned that the wage paid by the employer was in fact \$7.50 per hour, but, if the claimant accepted the work, he would receive only \$7 per hour because the employer was obligated to pay the first job shop 50 cents per hour for referring the claimant to work. The claimant decided not to accept the employment offer because he thought it was unfair that the job shop would receive this amount from his hourly wage.

The claimant will not accept work paying less than \$7 per hour, and at the time of the referee's hearing on June 4, 1969 he had had no work since he left his job on October 31, 1968.

There is an absence of clear evidence in the record as to the prevailing rate paid for the claimant's skills. However, the claimant's uncontradicted testimony is that the "going rate" is \$7.50 per hour and employers have to come up to at least that figure in order to obtain qualified technical writers.

REASONS FOR DECISION

Section 1257(b) of the Unemployment Insurance Code provides for the disqualification of a claimant if "He, without good cause, refused to accept suitable employment when offered to him, or failed to apply for suitable employment when notified by a public employment office."

The claimant in this case was offered a job in his usual occupation which paid a wage he was willing to accept. The work was suitable employment. He refused it because he learned that the prospective employer

would pay 50 cents for each hour he worked to the private agency which referred him to the job. It therefore remains to be decided whether the claimant had good cause for refusing this offer of suitable employment.

We believe that when a claimant registers for work with an agency which charges the employer or the job seeker a fee for its services, the claimant accepts this condition. Then if suitable work is offered to him through the agency with which he is registered, he does not have good cause for refusing such job merely because he or the employer would have to pay a fee for the services rendered. Otherwise it would be an idle act for the claimant to seek work by registering with such an agency.

Applying the above reasoning to the facts in this case, we find the claimant's refusal of this suitable work, merely because the job finding agency would receive a fee, does not give him good cause for refusal of suitable work within the meaning of section 1257(b) of the code.

Section 1253(c) of the code provides that an unemployed individual is eligible for benefits with respect to any week only if he was able to work and available for work for that week. If the claimant imposes restrictions on acceptable work which significantly reduce the possibilities of his obtaining employment, these restrictions tend to remove the claimant from the labor market and render him unavailable for work.

Obviously a claimant is not available for work if he imposes a wage restriction that substantially reduces his opportunities for obtaining work. And, generally speaking, a claimant can impose a higher wage restriction on suitable work during the initial period of his unemployment, but as his unemployment extends the claimant must lower his sights and reduce his wage requirements.

Although the claimant herein has been unemployed for a considerable period of time, the record does not show that his continuing unemployment is due to his

wage restriction. His restriction to \$7 per hour has always been below the "going rate" of \$7.50 per hour. Thus, we could not expect the claimant to lower his sights when they were already sufficiently low at the very start of his unemployment. Under these circumstances we find that the claimant's restriction to \$7 per hour does not render him unavailable for work within the meaning of section 1253(c) of the code.

DECISION

The decision of the referee is reversed. The claimant is subject to disqualification under section 1257(b) of the code for four weeks as found by the Department. He is not ineligible for benefits under section 1253(c) of the code.

Sacramento, California, March 10, 1970

CALIFORNIA UNEMPLOYMENT INSURANCE APPEALS BOARD

ROBERT W. SIGG, Chairman

LOWELL NELSON

CLAUDE MINARD

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